

REMARKS/ARGUMENTS

The Examiner is thanked for their review of the application.

Claims 1-4 remain in this application. Claims 1, 3 and 4 have been amended. Claims 7 – 10 have been added. No new matter has been added.

In the non-final Office Action dated November 22, 2005, the Examiner has rejected Applicant's arguments stating that "Ouimet does not teach or suggest a method for generating a preferred set of prices using activity-based costs to determine a local optimum for the preferred set of prices which maximize profit a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. In the instant case the limitation of claim 1 'that will provide a local optimum for the preferred set of prices, and wherein the local optimum for the preferred set of prices maximizes profit' are intended results of the 'preferred set prices'. The claimed invention fails to specify any limitations (process steps), which would actually achieve these intended results. No further consideration is given to this intended result in analysis of the claims. In order to overcome this deficiency, one or more process steps concerning generation of the local optimum for the preferred set of prices must be implemented. Note that dependent claims 2-4 also inherit this deficiency."

In the same Office Action the Examiner has rejected Claims 2-4 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding this rejection the Examiner has stated that "Claim 2 recites limitation 'the generation of the local optimum for the preferred set of prices.' which lacks antecedent basis in the claim because claim fails to recite that the local optimum is generated. Claim 1, as explained, only suggests (without positively reciting generation of the local optimum) that the preferred set of prices will provide a local optimum, which is intended result or intended objective of the preferred set of prices. Dependent claims 3-4 also inherit this deficiency. Appropriate correction is required."

Claim 1 has now been amended to read, in pertinent part:

“generating, using the computer system and using the plurality of demand coefficients and the cost data a local optimum for the preferred set of prices, wherein the local optimum for the preferred set of prices maximizes profit; and
generating, using the computer system, the preferred set of prices using the local optimum as a starting point. (emphasis added).

Support for the amendment can be found in the specification, as filed, on page 115, lines 12 – 14.

As amended, Claim 1 now clearly specifies the process steps of the instant invention used to generate the local optimum and the preferred set of prices. As such, the antecedent basis for the generation of the local optimum and the preferred set of prices is now provided. Applicants respectfully submit that Claims 3 – 4 are in compliance with 35 U.S.C. 112 and are in condition for allowance.

In the same Office Action the Examiner has rejected Claims 1 under 35 U.S.C. 102(e) as being anticipated by Ouimet et al. (US 6094641). Regarding this Claim the Examiner has stated that “Ouimet (641) teaches a method for determining a preferred set of prices for a plurality of products comprising:

Receiving using a computer system a plurality of demand coefficients;

Receiving cost data including activity-based costs;

Generating using the plurality of demand coefficients and the cost data a preferred set of prices for the plurality of products.

[Note that this analysis does not consider the intended use limitation discussed above.]

(see col. 6 L 27 – col. 7 L30 section under heading ‘Perceived Pricing’, the demand coefficients are defined in terms of demand function $q = V q(\rho(p; \eta); X$, p represents pricing history which inherently include costs data including activity-based costs (sales history), then the preferred set of prices for the plurality of products are calculated using equations

Λ_u , weighting function is calculated as:

$$\Lambda_u = 1 + \eta \ln (D_u / D_{\max}).$$

The preferred set prices for the plurality of products is then calculated as:

$$rho = \text{Summation} (N_u D_u)$$

Note also that perceived prices are interpreted as preferred set of prices since the claim does not further define this term.”

Claim 1 has been amended to distinctly claim the process steps of generating the local optimum and generating the preferred set of prices as discussed above. The now clearly delineated process steps are claim limitations not taught not suggested by the prior art. As discussed in the specification on page 115, lines 6 – 20, generating a local optimum to act as a starting point for generating an optimized set of preferred prices offers the advantage of providing a feasible starting point for the price optimization. In this way, convergence can be achieved more readily.

Claim 1 has also been amended to recite, in part:

imputing, using the computer system, missing or incomplete cost data;(emphasis added).

Support for the amendment can be found in the specification, as filed, on page 75, lines 10 – 19.

By imputing missing or incomplete data, both the local optimum and the preferred set of prices may be generated without the added time and expense of gathering a complete data set. By imputing missing or incomplete data, costs may be more easily calculated at a store level, instead of having to average over all stores. The prior art does not teach nor suggest imputing missing cost data. Prior methods suggest using average values over a number of stores to solve the problem of missing data from individual stores. By imputing missing data, the instant invention offers the advantage of tailoring costs per store and, therefore, allowing for maximization of profits on an individual store basis. (See, specification, p. 75, lines 18 -19).

The prior art does not teach nor suggest the novel steps of generating a local optimum in the context of a price optimization scheme, and using the local optimum as a starting point to generate a preferred set of prices. Nor does the prior art suggest imputing missing cost data to

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provide a more facile and economical price optimization system. These novel aspects of the instant invention offer the advantages discussed above. As such, Applicants respectfully submit that Claim 1, and Claims 2 – 4, and new Claims 7 – 10 which depend from Claim 1 are now in condition for allowance.

New Claims 7 – 10 have been added as noted above. Support for each new claim can be found in the specification, as filed, as follows:

Claim 7: p. 75, lines 12 – 19;

Claim 8: p. 106, lines 5 – 7;

Claim 9: p. 69, lines 9 – 13; and

Claim 10: p. 62, lines 14 – 18.

In sum, base Claim 1 has been amended and is now believed to be allowable. Dependent Claims 2 – 4 and 7 – 10, which depend therefrom are also believed to be allowable as being dependent from their respective patentable parent Claim 1 for at least the same reasons. Hence, Examiner's rejection of dependent Claims 2 - 4 are rendered moot in view of the amendment to independent Claim 1. New claims 7 - 10 have been added and are also believed to be allowable. Applicants believe that all pending Claims 1 – 4 and 7 - 10 are now allowable over the cited art and are also in allowable form and respectfully request a Notice of Allowance for this application from the Examiner. The commissioner is authorized to charge any fees that may be due to our Deposit Account No. 50-2766 (Order No. DEM1P005). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at telephone number 925-570-8198.

LAW OFFICES OF KANG S. LIM
PMB 436
3494 Camino Tassajara Road
Danville, CA 94506
Voice: (925) 570 8198
Facsimile: (925) 736 3974

Respectfully submitted,



Kang S. Lim
Attorney for Applicant(s)
Reg. No. 37,491

CUSTOMER NO. 36088

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